The State of New Hampshire
Department of Environmental Services

Clark B. Freise, Assistant Commissioner

February 15, 2017

The Honorable James Gray, Chair
Public and Municipal Affairs Committee
Legislative Office Building, Room 102
Concord, NH 03301

RE: SB 240-FN - An Act allowing owners of certain contaminated wells access to municipal water systems

Dear Chair Gray and Members of the Committee:

Thank you for the opportunity to testify on SB 240-FN. This bill would require that dwellings that obtain drinking water from a private well that exhibits a ten percent increase in man-made contaminants over a one year period be connected to the public water system at cost to the municipality in which such well is located. Based on the concerns discussed below, the New Hampshire Department of Environmental Services (NHDES) opposes this bill as introduced. However, NHDES understands that the prime sponsor may introduce an amendment that would address some or all of the concerns and will reevaluate its position on the bill if that occurs.

NHDES administers a program for investigating potential sources of contamination and ensuring that drinking water wells contaminated with man-made regulated contaminants above established health standards are addressed by treating the contaminated drinking water or by providing an alternative source of drinking water. The current process ensures that safe drinking water is available for entities whose drinking water has been impacted by man-made contamination above applicable health standards via the connection of the impacted entity to a nearby public water system, the installation of treatment for the drinking water well, or, as a temporary measure, the provision of bottled water.

SB 240 would require a municipality to pay the costs to connect an entity with a drinking water well to a public water system if the drinking water well exhibits a man-made contaminant (with or without established health standards), that increases by ten percent over a period of one year. This requirement would apply even if the man-made contaminant has no health standard or is present at concentrations far below established health standards. Many regions of the state have no public water systems or only have small privately-owned public water systems that do not have the capacity to supply water beyond their existing customer base. This means that it could cost millions of dollars in some instances to connect dwellings to the nearest viable public water system. The bill does not provide for an assessment of the technical or financial feasibility of water supply alternatives such as installing treatment where there are no nearby public water systems.
Other concerns that NHDES has with the bill include the following:

- A 10% variation in concentration over a one year time is consistent with the typical variability of chemicals in groundwater.

- Laboratories typically utilize analytical methods that allow for up to +/- 30% error in measurements meaning that the measurement of a 10% increase in concentration may not be discerned accurately without collecting a large number of water samples from a given well.
- The bill's criterion for connecting a home to a public water system is a 10% increase in the concentration of man-made contaminants even if the concentration of man-made contaminants is below health standards, not considered a health risk, or not regulated at this time. This criterion is problematic because: 1) It could result in a case where a home on a private well with almost non-detectable levels of contamination (e.g. 1 part-per-trillion) could be eligible for connection to a public water system if subsequent water sample reports a 1.1 part-per-trillion concentration; and 2) It is likely that there will be some instances where nearby public water systems would have similar or potentially higher trace level concentrations of the same or other man-made contaminants.
- The most advanced analytical methods currently available can look for thousands of man-made contaminants often at levels near part-per-trillion. Accordingly, a few man-made contaminants would likely be detectable at trace levels in practically every drinking water well if the most advanced analytical methods are utilized.
- Typical chemical usage by homeowners could cause a 10% increase of man-made contaminants in water in a private well. The application of chemical fertilizer or pesticides to a residential lawn or garden, for example, could easily cause the concentration of man-made chemicals to increase by much more than 10%.
- SB 240 does not establish how the requirements of the bill would be administered and enforced.

In view of these concerns, NHDES does not support the bill. However, we look forward to reviewing the anticipated amendment and would welcome any opportunity to work with the bill sponsors to address these concerns.

Thank you again for the opportunity to comment on SB240-FN. If you have questions or need additional information, please feel free to contact either Sarah Pillsbury, Drinking Water and Groundwater Bureau Administrator (Sarah.Pillsbury@des.nh.gov , 271-1168) or Mike Wimsatt, Director of the Waste Management Division (Michael.Wimsatt@des.nh.gov, 271-1997).

Sincerely,

Clark B. Freise
Assistant Commissioner

cc: Sponsors of SB240-FN: Senators Innis, Bradley, Fuller Clark, and Gannon; Representatives Messmer, Cushing, Malloy, Marsh and Bean